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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,141	09/08/2003	Johannes Schmid	032498-016	8660

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EXAMINER

TRAN, KHOI H

ART UNIT PAPER NUMBER

3651

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/656,141

**Applicant(s)**

SCHMID, JOHANNES

**Examiner**

Khoi H. Tran

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on RCE filing 10 August 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-7,9-17 and 19-21 is/are rejected.  
7) ☒ Claim(s) 8 and 18 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

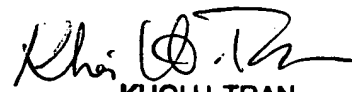
### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



**KHOI H. TRAN**  
**PRIMARY EXAMINER**

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The request filed on 08/10/2006 for a Request For Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/656,141 is acceptable and a RCE has been established. An action on the RCE follows.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haaser et al. 5,938,080 in view of Dirksing et al. 6,516,245.

Haaser et al. '080 disclose a color mixing device wherein the mixing process is controlled via a processor. The processor comprises local memory unit for storing mixing formulae (Figure 11). The processor calculates mixing portions for freely selectable quantities of substances to be mixed. For example, different types or quantities of colors are freely selectable to be mixed by a user. The processor acts upon dispensing valves and respective drives to control mixing processes for the freely selectable quantities of substances to be mixed. The device comprises a scale 70 integrated into the device for measuring and controlling of the mixing substances. The device comprises display 190 (Figures 1 and 12) for showing references and actual values of the mixing formula or substances. Manual adjustment of the mixing formula or substances could be done after the displayed of the references and actual values

(column 10, second full paragraph). However, Haaser et al. '080 is silent as to the specifics of a wireless network, wherein the mixing formulae could be downloaded from a remote data server.

Dirksing et al. '245 disclose a device for mixing substances and method of operating said device for mixing substances. The mixing device 130 comprises a processor unit having local memory for storing mixing formula (Figures 2A and 2C). The processor comprises input means for transferring information to the processor. The processor controls the drive unit and valves (measuring devices) for dispensing appropriate amount of substances to be mixed (Figures 2C and 2D) based on the information provided via input means. The device comprises a display unit (LCD, not shown, but figuratively represented as reference 90 in Figure 1, and column 4 last paragraph) for displaying a dispensing formula/product to a user. The device comprises a measuring device (i.e. valves) by which portions of substances in quantities determined according to a mixing formula are filled into a container. The processor unit is connected to a communication module for establishing a wireless connection to a data server, i.e. the Internet (column 4, lines 50-54, column 5, first paragraph). The mixing formula can be transmitted to the memory unit from said data server (Figure 1). The formula can be manually adjusted to accommodate user's preference. The mixing formula can be filled manually or automatically based on user's input. Dirksing '245 processor connects to a data server (any device that provides data to the processor) for a time period regularly or intermittently based on user's predetermined inputs. Dirksing et al. '245 comprise memory for storing previously selected mixing formula (Figure 1,

blocks 40 and 50). The stored selection can be visualized on the display unit (i.e. LCD and reference 90 in Figure 1) for manual adjustment of the pre-selected formula.

Dirksing et al. '245 teach that mixing formulae from a central remote data server are downloadable, regularly or intermittently, to a local controller via wireless communication network.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided Haaser et al. '080 with wireless communication connection to a remote data server because it facilitates the sending of mixing formula data to the local controller, as taught by Dirksing et al. '245. Any formula that is being downloaded from the database is considered as up-to-date formula. The downloading of mixing formulae from a central server facilitates central remote controls for the entire system.

In regards to claims 2 and 3 Haaser et al. '080 modified device discloses all elements per claimed invention. However it is silent as to the specific of the wireless communication module operates according to a mobile radio protocol or/and according to at least one wireless Local Area Network protocol.

As pointed out from Applicant's specification and the filed Information Disclosure Statement, wireless communication having mobile radio protocol and/or Wireless Local Area Network protocol (W-LAN) are commonly well known.

It would have been obvious for a person with ordinary skill in the art at the time the invention was made, to have provided mobile radio protocol and/or W-LAN protocol

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for Haaser et al. '080 modified wireless communication network because it facilitates a well-known wireless communication protocol for the network.

In regards to claim 4, Haaser et al. '080 modified device discloses all elements per claimed invention. However it is silent as to the specific of the communication module operates using at least Wireless Application Protocol (WAP) and a Hypertext Transfer Protocol (HTTP).

As pointed out from Applicant's specification and the filed Information Disclosure Statement, WAP and HTTP protocols are commonly well known for providing communication protocols within an Internet environment.

It would have been obvious for a person with ordinary skill in the art at the time the invention was made, to have provided WAP and HTTP protocols for Haaser et al. '080 modified wireless Internet communication network because it facilitates well-known communication protocols for the Internet network.

In regards to the method claims, usage of Haaser et al. '080 modified device anticipates the claimed process steps.

In regards to claim 11, when a new formula is introduced to Haaser et al. '080 modified device it is interpreted to be a new mixing formula. When an existing formula is modified/changed by a user, it is a modifying formula replacing the existing formula.

In regards to claims 12 and 19, it is obvious that the updating of data in the local memory takes place a) before a start of a mixing process; b) at a predefined or at selectable time intervals; c) in response to manual control, or; d) in response to being initiated by the data server from the Internet.

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3. Claims 1-7, 9-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haaser et al. 5,938,080 in view of Neas et al. 6,793,387.

Haaser et al. '080 disclose a color mixing device wherein the mixing process is controlled via a processor per claimed invention as indicated in paragraph 2 above.

However, Haaser et al. '080 is silent as to the specifics of a wireless network, wherein the mixing formulae could be downloaded from a remote data server.

Neas et al. '490 disclose a device for mixing color substances. The device comprises a processor unit 17A having a local memory to store mixing formula, an interactive display/input unit 16A, and a measuring/dispensing system 17B. The device comprises a wireless communication module for connecting the processor to a data server 25, to a wide area network (WAN), or to an Internet network (column 5, lines 37-67). Inputs for controlling the dispensing/mixing of substances by the device could be provided by touch screen 16A manually, by downloaded from the data server, the WAN, or the Internet onto the processor and the local memory unit. The inputs to the processor and the memory unit include mixing formula information in order for the device to properly control the amount of desired mixing substances.

Neas et al. '490 teach that mixing formulae from a central remote data server are downloadable, regularly or intermittently, to a local controller via wireless communication network.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided Haaser et al. '080 with wireless communication connection to a remote data server because it facilitates the sending of

mixing data formula to the local controls, as taught by Neas et al. '490. The downloading of mixing formulae from a central server facilitates central remote controls for the entire system.

In regards to claims 2 and 3, it is obvious that Haaser et al. '080 modified wireless communication module would have to operate according to at least one wireless local area network protocol in order for the communication network to adhere to the current industry's communication standards and/or the US FCC regulations. In addition, as pointed out from Applicant's specification and the filed Information Disclosure Statement, wireless communication having mobile radio protocol and/or Wireless Local Area Network protocol (W-LAN) is commonly well known.

In regards to claim 4, it is obvious that Haaser et al. '080 modified device and respective processor unit, when connecting to the Internet, would comprise a browser that operates using a Hyper text Transfer Protocol because such standard protocol is commonly well known within the industry, as pointed out in Applicant's specification and the filed Information Disclosure Statement.

Haaser et al. '080 modified device regularly or intermittently creates wireless communication connections to the data server. Each time a mixing formula is inputted to the processor for the controlling of the dispensing/mixing process, it is considered to be an up-to-date data/information. For example, a new mixing formula replacing the previous mixing formula is obviously an up-to-date mixing formula.

In regards to the method claims, usage of Haaser et al. '080 modified device anticipates the claimed process steps.



In regards to claims 12 and 19, it is obvious that the new up-to-date mixing formula would have to be inputted to the processor prior to the mixing process.

4. Claims 1-7, 9-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haaser et al. 5,938,080 in view of Jungmann et al. 6,763,860

Haaser et al. '080 disclose a color mixing device wherein the mixing process is controlled via a processor per claimed invention as indicated in paragraph 2 above. However, Haaser et al. '080 is silent as to the specifics of a wireless network, wherein the mixing formulae could be downloaded from a remote data server.

Jungmann et al. '860 disclose a device for controlling fluid dispensing system according to formulae. The device comprises a local processor unit 17A having memory to store dispensing formula. Jungmann et al. '860 comprise a wireless communication network for connecting the local processor to a data server to a wide area network (WAN), or to an Internet network (Figures 1 and 2).

Jungmann et al. '860 teach that predetermined dispensing formulae from a central remote data server are downloadable to a local processor via wireless communication network for the controlling of the local dispensing of products, regularly or intermittently.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided Haaser et al. '080 with wireless communication connection to a remote data server because it facilitates the sending of formula data to the local processor from a central remote location, as taught by

Jungmann et al. '860. The downloading of mixing formulae from a central server facilitates central remote controls for the entire system.

In regards to claims 2 and 3, it is obvious that Haaser et al. '080 modified wireless communication module would have to operate according to at least one wireless local area network protocol in order for the communication network to adhere to the current industry's communication standards and/or the US FCC regulations. In addition, as pointed out from Applicant's specification and the filed Information Disclosure Statement, wireless communication having mobile radio protocol and/or Wireless Local Area Network protocol (W-LAN) is commonly well known.

In regards to claim 4, it is obvious that Haaser et al. '080 modified device and respective processor unit, when connecting to the Internet, would comprise a browser that operates using a Hyper text Transfer Protocol because such standard protocol is commonly well known within the industry, as pointed out in Applicant's specification and the filed Information Disclosure Statement.

Haaser et al. '080 modified device regularly or intermittently creates wireless communication connections to the data server. Each time a mixing formula is inputted to the processor for the controlling of the dispensing/mixing process, it is considered to be an up-to-date data/information. For example, a new mixing formula replacing the previous mixing formula is obviously an up-to-date mixing formula.

In regards to the method claims, usage of Haaser et al. '080 modified device anticipates the claimed process steps.

In regards to claims 12 and 19, it is obvious that the new up-to-date mixing formula would have to be inputted to the processor prior to the mixing process.

***Allowable Subject Matter***

5. Claims 8 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 08/10/2006 have been fully considered but they are not persuasive.

Applicant argued that Haaser et al. 5,938,080 does not teach that mixing portions are freely selectable as recited in claim 1. This argument is not persuasive and not supported by the claim language of claim 1. Claim 1 requires that the quantities of substances to be mixed are freely selectable. And the processor calculates the mixing portions for the selected substances. Haaser et al. '080 anticipates this claim as indicated in paragraph 2 above. Haaser et al. '080 system provides users with the option of freely selecting the quantities of color to be mixed, either automatically or manually.

Applicant argued that the Dirksing et al. 6,516,245 does not cure the deficiencies of Haaser et al. '080 because Dirksing et al. '245 does not contain "a local memory unit being able to keep mixing formula ....a processor unit to calculate mixing portions....substances to be mixed". This argument is not persuasive. It is the teaching that mixing formulae from a central remote data server are downloadable wirelessly to a

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local processor that provides the motivation for combining Haaser et al. '080 and Dirksing et al. '245.

Applicant argued that the Neas et al. 6,793,387 does not cure the deficiencies of Haaser et al. '080 because Neas et al. '387 does not contain a scale and among listed elements in page 13. This argument is not persuasive. It is the teaching that mixing formulae from a central remote data server are downloadable wirelessly to a local processor that provides the motivation for combining Haaser et al. '080 Neas et al. '387.

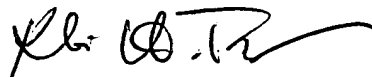
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H. Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Khoi H Tran  
Primary Examiner  
Art Unit 3651

KHT  
08/17/2006